

FILED 11 MAR 23 13:00 USDC-ORM

1 Denise and Kenneth Cook
2 theshopgp@gmail.com
3 300 Newt Gulch Rd
4 Wilderville, OR 97543
5 541-761-0165

6 UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF OREGON

DENISE and KENNETH COOK,

Plaintiffs,

v.

BENEFICIAL OREGON INC., a Delaware
Corporation;

SHAPIRO & SUTHERLAND, LLC, a
Washington State LLC;

Defendants.

) Case No. 10-CV-3121-PA

) PLAINTIFFS VERIFIED RESPONSE TO
) DEFENDANT BENEFICIAL'S CONCISE
) STATEMENT OF MATERIAL FACTS.

8 Plaintiffs Denise and Kenneth Cook respectfully submit this response to defendant Beneficial's
9 concise statement of facts (dkt #28).

10 I. INTRODUCTION

11 1. Plaintiffs primary contention is that defendants were not holder in due course of the
12 security instrument (promissory note) in July, 2010 (at which time defendants started a foreclosure
13 process) for the property commonly known as 300 Newt Gulch Rd., Wilderville OR (NG Property).

14 2. Defendant Beneficial has failed to comply with this courts order (dkt #22, pg 2) :

15 "Within 10 days, defendant shall submit a chain of title for the
16 Promissory Note and Deed of Trust at issue. This chain of title should
17 include all transfers/assignments/etc of any interest, including the
18 beneficial interest, in the note and the deed. Defendant shall also submit
19 information regarding the present location of the original note.

Defendant shall obtain possession of the original note and produce it upon the courts request."

II. ANSWER

1. Denied. Plaintiffs 1st Amended Complaint (dkt #19) correctly lists defendant Beneficial.

2. Pursuant to LR 56-1(b), Objection: Relevance. Not material to case.

3. Objection: Relevance. Not material to case.

4. Objection: Relevance. Not material to case.

5. Objection: Relevance. Not material to case.

6. Denied. At no time have plaintiffs claimed their loan is a HELOC.

7. Denied. Plaintiffs filings (dkts 19, 19-1, 19-2, Exhibits 1-19) present a wide array of evidence to the contrary. In addition, defendant's have failed to follow this courts order (dkt #22).

8. Denied. Plaintiffs filings (dkts 19, 19-1, 19-2, Exhibits 1-19) present a wide array of evidence to the contrary.

9. Objection: Relevance. Not material to case.

10. Denied. Defendants have not shown they were holder in due course of promissory note.

11. Denied. Defendants have not shown they were holder in due course of promissory note.

12. Admitted, but unlawfully so since defendant Beneficial was not holder in due course in July 2010 and has failed to comply with this courts order (dkt #22, pg2).

13. Objection: Relevance. Not material to case.

14. Objection: Relevance. Not material to case.

15. Objection: Relevance. Not material to case.

16. Objection: Relevance. Not material to case.

17. Denied. (Offer of Proof: Exhibit 19, True Copy of plaintiff Kenneth Cook affidavit).

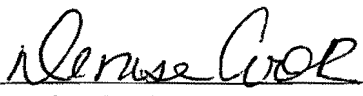
18. Denied. Exhibit 19, (plaintiff Kenneth Cook affidavit)

19. Denied. Exhibit 19, (plaintiff Kenneth Cook affidavit)

45 20. Denied. Plaintiffs don't believe there was any public sale. Exhibit 19, (plaintiff Kenneth
46 Cook affidavit). In addition, the seller and buyer were one and the same party-defendant Beneficial
47 (dkt #13-3, pg 3 ¶ 2).

48 21. Denied. Plaintiffs don't believe there was any public sale, Exhibit 19, (plaintiff Kenneth
49 Cook affidavit). In addition, the seller and buyer were one and the same party-defendant Beneficial
50 (dkt #13-3, pg 3 ¶ 2).

51 Submitted this 23rd day of March, 2011.

52 
53 Denise Cook.


Kenneth Cook.